IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 16.10.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice S.TAMILVANAN

Habeas Corpus Petition No.779 of 2006

N.Usha ... Petitioner

Vs.

1. The District Magistrate and
   District Collector,
   Perambalur District,
   Perambalur.

2. The Secretary to Government,
   Prohibition and Excise Department,
   Tamil Nadu Government,
   Secretariat, Chennai-9. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to direct the respondents herein to produce the detenu Nagaraj S/o Angamuthu, now detained in Central Prison Tiruchirapalli before this Court and call for the records pertaining to the detention order made in Cr.M.P.No.62/2005 dated 6.2.2006 on the file of the first respondent, set aside the detention order and set the detenu at liberty.

For Petitioner : Mr.K.J.Nithianandam

For Respondents: Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner, who is the wife of the detenu, by name Nagaraj, who is detained as a ''Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 06.02.2006, challenges the same in this Petition.

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2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, the learned counsel for the petitioner by drawing our attention to the order of the District and Sessions Judge, Perambalur, dated 02.01.2006 made in Crl.M.P.No.4031 of 2005 (Bail Application) submitted that the reference therein clearly reflects the predetermination in detaining the detenu, hence the order of detention is vitiated. In support of the above contention, he also relied on the decision of this Court reported in 2005 MLJ (Crl)467 [Ganesan vs. State of Tamil Nadu and another]

4. In the light of the above contention, we verified the order dated 02.01.2006 which is available at page No.61 of the paper book supplied to the detenu, which clearly shows that it was reported to the Court that steps are being taken to detain the petitioner/detenu under Tamil Nadu Act 14 of 1982. The detention order was passed on 06.02.2006 and the order in the said application was passed on 02.01.2006. As rightly pointed out by the learned counsel for the petitioner, the representation to the Court on 02.01.2006 clearly shows the predetermination on the part of the detaining authority to detain the detenu under the Tamil Nadu Act 14 of 1982. Similar view has been expressed in 2005 MLJ Crl 467. We accept the said contention of the learned counsel for the petitioner and we are satisfied that under these circumstances, the detention order is liable to the quashed.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with some other case or cause.

gms

Sd/-
Asst. Registrar

//true copy//

Sub Asst.Registrar

To

1.The District Magistrate and District Collector,
Perambalur District,Perambalur.

2.The Secretary to Government, Prohibition and Excise Department, Tamil Nadu Government,Secretariat, Chennai-9.

3. The Superintendent, Central Prison, Tiruchirappalli.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5.The Public Prosecutor, High Court, Madras.

Rsm/27.10.2006 HCP. No.779 of 2006

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